

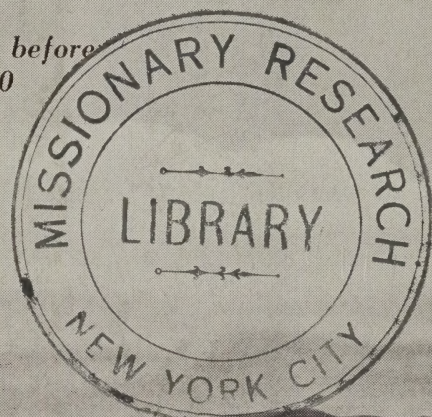
Pam
India

17han

1010

Kashmir Question

*Extracts from Sir Zafrulla Khan's speech before
the Security Council, February 1950*

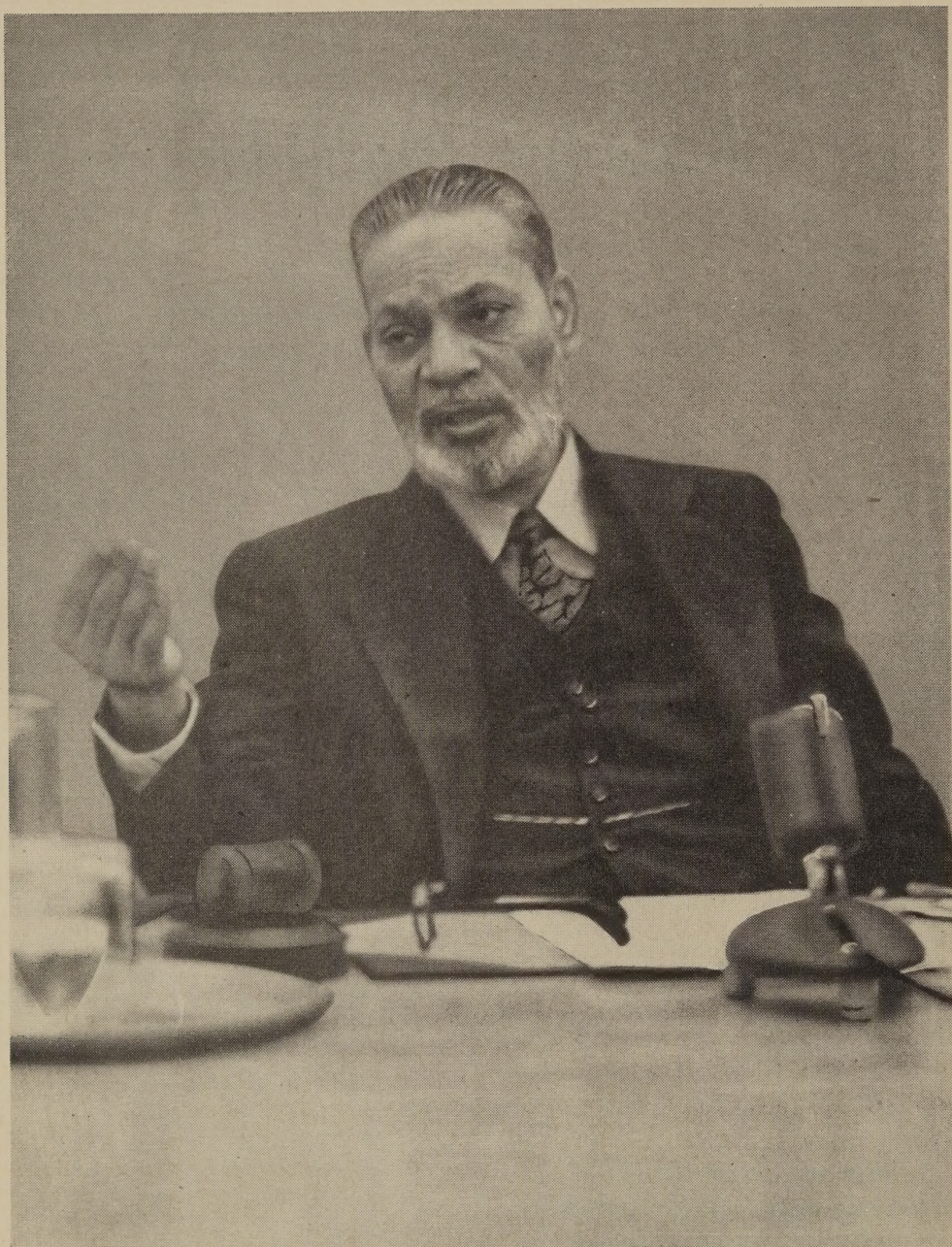


KASHMIR TO PAKISTAN

Kashmir Question

*Extracts from Sir Zafrulla Khan's speech before
the Security Council, February 1950*

With the Compliments of the
PAKISTAN PERMANENT DELEGATION
TO THE UNITED NATIONS



SIR MUHAMMAD ZAFRULLA KHAN
Foreign Minister of Pakistan, at Lake Success

FOREWORD

This pamphlet reproduces in a handy form extracts from the speech of Sir Muhammad Zafrulla Khan, Foreign Minister of Pakistan, on the Kashmir question at the meetings of the Security Council held on 7th, 8th, and 9th February 1950. While every effort has been made to adhere to the text of the passages reproduced, slight changes and additions have been made in an effort to present a connected picture.

The cover page shows refugees from Kashmir on their way to safety in Pakistan.

M. AYUB,
Secretary-General,
Pakistan Delegation to the United Nations.

New York,
March 31, 1950.

Importance of the Kashmir Case

The Kashmir dispute is an issue of the utmost importance not only from the point of view of the peace and prosperity of the two States that are directly affected by it, but it has since its unfortunate origin put in serious jeopardy the maintenance of international peace.

Kashmir Not An Isolated Case

The first question that would assist the Council in appreciating and appraising the significance of the dispute over Kashmir between India and Pakistan would be an appreciation of the considerations governing the accession of Indian States to the Dominion of India or to the Dominion of Pakistan. Kashmir is not an isolated case by itself. There were in the whole sub-continent of India some 500 and odd Indian States, and out of them three or four became the subject matter of controversy or dispute between the two Dominions.

Indian States enjoyed various degrees and attributes of sovereignty before 15th August, 1947. None of them was fully sovereign in the international sense, inasmuch as their foreign relations and some other aspects of sovereignty were managed by the suzerain power—that is to say, by the United Kingdom. But that state of affairs came to an end on 15th August, 1947, in pursuance of Section 7 of the Indian Independence Act passed by the United Kingdom Parliament. The Independence Act provided a solution for the political and constitutional evolution of the whole of the sub-continent. To start with, British India was to be partitioned into contiguous majority areas of Muslims and into contiguous majority areas of non-Muslims. The former were to be constituted into an independent sovereign state to be known as Pakistan and the latter into another sovereign independent state which has been since known as India or Bharat.

That left the question of the Indian States. Under Section 7 of the Indian Independence Act, it was provided that the suzerainty of the British Crown over the Indian States would lapse on the due date, that is, 15th August, 1947, and all treaties and agreements in force would cease to be operative.

But after the Act was passed the then Viceroy of India, Lord Louis Mountbatten, told the Chamber of Princes on 25th July, 1947, that there were certain geographical compulsions which could not be ignored. He advised the Princes to take into account considerations such as the geographical location of their States, economic and strategic factors, and the wishes of their people in arriving at a decision as to whether to accede to India or to Pakistan.

No trouble arose with regard to the vast majority of the Indian States. Those that were contiguous to India and had a majority of non-Muslim population acceded to India, with the exception of Hyderabad. Those which were contiguous to Pakistan and had a majority of Muslims in their populations acceded to Pakistan, with the exception of Kashmir. One Indian State which, although not contiguous to Pakistan by land, had access to Pakistan through a short sea trip—that is to say, Junagadh, which had a majority of non-Muslims in the population but a Muslim ruler—acceded to Pakistan.

The States of Hyderabad, Junagadh and Kashmir presented a problem, and anyone desiring to understand India's stand with regard to Kashmir would do well to study the views and actions of the Government of India with regard to the related cases of Hyderabad and Junagadh also. It is particularly incumbent upon the Security Council to do so, not only for the better appreciation and appraisal of the Kashmir case but also because the Hyderabad and Junagadh cases are also pending on the agenda of the Council.

On 8th March, 1948, addressing the Security Council at its two-hundred and sixty-fourth meeting, the then representative of India explained India's position in respect to accession in these words:

"No doubt the ruler, as the head of state, has to take action in respect of accession. When he and his people are in agreement as to the Dominion to which they should accede, he applies for accession to that Dominion. However, when he takes one view and his people take another view, the wishes of the people have to be ascertained. When so ascertained, the ruler has to take action in accordance with the verdict of the people. That is our position." (S.P.V. 264, page 26).

It was not a gratuitous offer on behalf of India, as has just been suggested by the representative of India, that the question of the accession of Kashmir to India or to Pakistan should be settled on the basis of a free and impartial plebiscite. At the time when India made that reservation to the accession, or made that offer—it had before it the problem of Junagadh, which had already acceded to Pakistan. Junagadh had entered into a standstill agreement with Pakistan on 15th August, and had acceded to Pakistan on 15th September, 1947. Up to that point—there had not been a single incident in Junagadh itself between the ruler and his people. Nevertheless, India had already made a demand that a plebiscite be held in Junagadh. And in the background there was the problem of Hyderabad. It was in order to suit India's interests in respect of these two States that this principle of a plebiscite was evolved and put forward. Let us see how that principle was applied in practice to the three cases in dispute.

The Hyderabad Case

In the case of Hyderabad, the ruler was a Muslim; the majority of the people were non-Muslim. The ruler, the Nizam, did not desire to accede either to India or to Pakistan. He desired to enter into special treaty relations with the Government of India in order to preserve a fair measure of independence for his State. The Government of India refused to accept that position and demanded that the State should accede to India unconditionally. The Nizam offered to hold a plebiscite under United Nations supervision in order to ascertain the wishes of the people of the State on the question of establishing a political relationship with India on the basis of accession or by means of a treaty. The Government of India rejected the offer. What it said was this: You accede first, and the plebiscite can be held later. Moreover, the only choice to be offered to Hyderabad

at the plebiscite was to accede to India. There was no intention of giving Hyderabad the choice of independence.

The position of India with regard to Hyderabad is set out in a White Paper issued by the Government of India on 10th August, 1948. I shall invite the attention of the Council to three brief extracts from it. The first is the following:

"The Government of India are firmly of the view that, whatever sovereign rights reverted to the States on the lapse of paramountcy, they vest in the people and conditions must be created in every State"—this was not a generous or a charitable offer in respect of Kashmir only—"for a free and unfettered exercise of these rights."

In the next extract, the White Paper quotes the following declaration made by Sardar Patel, the Deputy Prime Minister and Home Minister of India, on 27th August, 1947:

"If, however, the Nizam's Government are still unable to decide their course in the only right direction in which it lies,"—that is to say, to accede to India—"His Exalted Highness must agree to submit the issue to the judgment of his people and abide by the decision. We, on our side, will be content to accept whatever might be the result of such a referendum."

The third extract from the White Paper is the following:

"When, therefore, the Nizam and his Government complain against the so-called denial of self-determination, they mean, in fact, that a small clique should have unfettered power to dominate the masses."

That is what India claimed: that a Muslim ruler of a predominantly non-Muslim population should not have the right to determine the question of the accession of his State to either Dominion, or, in the absence of accession, to remain independent.

"The Nizam's Government wish to hold a plebiscite under the conditions in which a small militant group controls the destinies of the people and the Razakars"—that is to say, the volunteers, like the State Militia in Kashmir—"are left free to terrorize the people into submission. A plebiscite without an interim government representative of and satisfactory to the majority population in Hyderabad will only be a fraud on the people."

And that is the fraud that India has consistently tried to persuade the Security Council and the Commission to let it practice in Kashmir.

In the words of the Indian White Paper on Hyderabad, a plebiscite held under the conditions in which a small military group—controlled the destinies of the people, and in which the Razakars—in the case of Kashmir, the



PAKISTAN AND INDIA

LEGEND

PAKISTAN INDIA

MILES 0 100 200 300 400
KILOMETERS 0 100 200 300 400

State forces and the State militia—were left free to terrorize the people into submission could not be treated as free and impartial. That was a course which the Government of India said it would not tolerate in Hyderabad. A plebiscite, yes; but let the Nizam first accede to India so that by accession India comes into military charge of the State—in charge of its communications, in charge of its external relations and practically in overall supervision of the whole of the State, and then let the plebiscite be held. That is what the Indians claimed in respect of a state where the ruler was a Muslim and the majority of the people were non-Muslims.

Now when that could not be held, the Nizam did not agree, what did the Indians do? How far did they respect the sovereignty of the Nizam and the integrity of his State? They marched their troops into Hyderabad, and they are still in military control of the State in spite of the fact that before the military forces of India marched into Hyderabad, the case of Hyderabad, under the Nizam's directions, had been brought before the Security Council and was then pending before the Security Council.

The Junagadh Case

Junagadh entered into a standstill agreement with Pakistan on 15th August, and acceded to Pakistan on 15th September, 1947. The Government of India at once objected to the standstill agreement and later on to the accession. The Government of India maintained most strenuously that Junagadh's accession to Pakistan was in utter violation of the principles on which the partition of the country had been agreed upon and effected. The partition of India had taken place on the principle of Muslim majority areas in Pakistan and non-Muslim majority areas in India, and, therefore, the Government of India argued, the accession of a State with a majority of non-Muslims to Pakistan was in violation of the principles on which the partition had been agreed upon. They also went on to assert that it was an encroachment on Indian sovereignty and territory, and that it represented an attempt to disturb the integrity of India.

Cannot Pakistan with equal justice retort with regard to Kashmir in the very words employed by the Government of India in respect of Junagadh that the so-called accession of Kashmir to India is in utter violation of the principles on which the partition of the country was agreed upon and effected, that it is an encroachment on Pakistan's sovereignty and territory and that it represents an attempt to disturb the integrity of Pakistan?

The Government of India insisted that on geographical, economic and military considerations, and on the fact that the majority of the people of the State were non-Muslim Junagadh should have acceded to India, and that, in any case, the final decision with regard to this matter must lie with the people of the State.

But what did they propose? How was the decision, the final decision, the wish of the people of the State, to be ascertained? Under what conditions? They proposed that the question of accession should be settled either by negotiation, that is, admitting India's claim to the accession of Junagadh, or by a plebiscite organized under the joint control of the State of Junagadh and the Government of India.

If this was a fair offer, why cannot Pakistan with equal justice, contend that the ascertainment of the wishes of the people of Kashmir should be by means of a plebiscite held under the joint control of the State of Kashmir and the Government of Pakistan?

While these negotiations were still proceeding between the two Governments the Government of India marched their troops into Junagadh. As a matter of fact, even before they did that, a "Provisional Government," of Junagadh was set up in Indian territory. That is important when the Council comes to assess the allegations that have been made of encouragement given by Pakistan to the people who were fighting for their liberty in Kashmir.

Subsequently a farcical plebiscite was held in Junagadh—India was already in military occupation of the State—and the State was formally incorporated into the Indian Dominion. Pakistan's complaint with regard to Junagadh is still pending with the Security Council.

Basic Factors Relating to Accession of Kashmir

Let us take the criteria laid down by Lord Mountbatten and apply them to Kashmir; that is to say, the geographical situation, economic and strategic factors.

GEOGRAPHICAL SITUATION

The State of Jammu and Kashmir has an area of 84,471 squares miles, mainly mountainous but with only two plains, the Valley of Kashmir, which is girded around by mountains, and the Jammu Plains. It is situated in the extreme northwestern corner of the undivided sub-continent of India.

A look at the map* distributed to members of the Council will show that the boundary between the State of Jammu and Kashmir and the Dominion of India bisects the mountainous range practically throughout its whole length. I should explain that near Pathankot, which is a railway terminus close to that boundary on the Indian side, there is a gap of about 20 to 30 miles which is a plain. Then the mountains begin and the whole of the common boundary from that point between India and Kashmir is mountainous. Most of the mountains are high and inaccessible. India's only road link with the State passes through that gap of about 20 to 30 miles width. The importance of that factor is that India has nothing to fear from the side of Kashmir inasmuch as there is scarcely any possibility of direct communication between Kashmir and India.

With regard to the boundary between Kashmir and Pakistan, it will be seen that the greater part of the boundary runs along the plains and cuts across three of the main rivers that flow through Pakistan.

Next comes the question of communications which, of course, is one of the corollaries of the geographical situation. Before partition, all three roads that led into Kashmir passed through Pakistan. Since partition, and after the Indian forces were moved into the State of Jammu and Kashmir, Pathankot has been linked by road with Srinagar, but this road goes over the 9000 foot high Banihal Pass and it is snowed up for

*The same map figures at the end of the booklet.

4 to 5 months in the year. The State has a very short railway line running from Jammu in the direction of Sialkot in Pakistan. All three main rivers of Kashmir flow into Pakistan. Thus, the geographical position and communications both indicate the natural integration of the State of Jammu and Kashmir with Pakistan and not with India.

ECONOMIC FACTORS

Let us now consider the economic factors. The one single article which is outstanding with regard to Kashmir's resources and trade is timber. The timber is cut down in the mountains. It is dragged down to the rivers and streams and floated down the streams and rivers into Pakistan. The two markets for Kashmir timber have always been Wazirabad, which you will see is next to Sialkot on the map, and Jhelum which is on the Jhelum River where the river intersects the road and the railway between Wazirabad and Rawalpindi, so that the whole of the timber produce of the State passed through and was marketed and sold in Pakistan. There was no other means; there is no other means of conveying that timber out of Kashmir. The Security Council can judge of the volume of this trade from the fact that 20 to 25 per cent of the total revenue of the Kashmir Government was derived from the sale of this timber.

The next item with regard to the trade of Kashmir is fresh fruits and vegetables, the nearest markets for which are at Rawalpindi and Sialkot, in Pakistan.

As regards woollens and carpets also, the largest sale of these was in the West Pakistan area. With regard to other goods—cottage industries and silk work and so on—no doubt they sold farther afield, but nevertheless their transit was all through Pakistan. The greater part of Kashmir's exports took place through the port of Karachi, which is the natural outlet for the products of Kashmir. Once they have arrived in Rawalpindi or Sialkot, the nearest seaport by rail is Karachi, and therefore these articles took that natural route. As regards imports, Kashmir obtained its essential supplies such as soap, rock salt, grain, pulses, cotton and petrol, from Pakistan. Thus it will be seen that the economy of Kashmir was naturally integrated with the areas now comprising West Pakistan rather than with India.

There is another and an almost overwhelming economic factor that must be taken into account. The three rivers—beginning at the top of the map—the Indus, the Jhelum and the Chenab, which flow from Kashmir into Pakistan, control to a very large extent the agricultural economy of Pakistan itself. As much as 19 million acres of land are irrigated in West Pakistan from the waters of these rivers. If Kashmir were to accede to India this supply would be liable to be cut off altogether. This is not an idle apprehension on the part of Pakistan. This situation has arisen already in the case of the rivers Ravi, Beas and Sutlej which have their sources in India but flow on to West Pakistan and irrigate a considerable part of its cultivable area. On 1 April, 1948 India took up the position that, being the upper riparian State in respect of these rivers, it was the owner of every drop of water in them and was entitled, if it so chose, to cut off the entire supply which flows down into Pakistan. On the basis

of that claim India actually cut off the supply on 1 April, 1948, and the supply was not restored until six weeks later when, at the point of the pistol, India had obtained an agreement from Pakistan that Pakistan would not only go on paying its proportionate expenses in respect of the running of these systems and the interest charges on the capital involved, but also seniorage, i.e. the price of the water supplied. Pakistan could obviously not accept the claim of India and was not willing to pay the price of the water in the shape of seniorage, and the agreement arrived at was that Pakistan should deposit this amount of seniorage in escrow pending the settlement of the dispute. Each side, of course, reserved its legal rights. For the moment water is being supplied to us from these rivers on payment not only of the legitimate charges which we have never disputed and have gone on paying, but on the deposit also of what India claims as the price of the water to be supplied from these rivers.

Assume, for one moment, that Kashmir were to accede to India. The same would apply to the other three rivers, and not only the water of the three rivers which flow from India into Pakistan but that of the three rivers which flow from Kashmir into Pakistan would be denied to Pakistan. Nineteen million acres of cultivated land would be turned into waste and millions of people would be faced with starvation and extinction. That is an economic factor the like of which cannot be produced in a comparable case anywhere else.

STRATEGIC FACTORS

So much for the geographical and economic factors. What about the strategic factors affecting the situation? India's security is not affected to the extent of one ounce by the accession of Kashmir to Pakistan. On the other hand, look at the question from the point of view of Pakistan. Take the main railway line, running from Lahore through Wazirabad to Rawalpindi and on to Peshawar. It has a road running parallel to it throughout. These are the two main strategic road and railway systems of Western Pakistan. **The whole of the defense of that area is based upon the fact that this line would not be threatened from the flank. If Kashmir acceded to India the whole of that flank would be threatened and broken.** The border of Kashmir for quite a long distance—over one hundred and fifty miles of this railway and road—runs parallel to the railway and road within a few miles. Now, what would happen? Pakistan might as well throw in its hand as far as making any preparations for defense is concerned. India would obtain direct access to the tribal areas and, through the tribal areas, on to Afghanistan. Pakistan's position would become absolutely untenable. The defense of the Pakistan frontier against any threat to it from the northwest has to be built up along the River Indus and then, beyond the River Indus, between that river and the international boundary known in that area as the Durand Line. If we were threatened all the time on our flanks by India what attention could we pay to the building up and the maintenance of our defense arrangements along the North Western frontier? It would lay a burden on Pakistan which Pakistan could not possibly undertake to bear.

Again from the defense point of view, quite as many as ten thousand Pakistan soldiers are drawn from certain areas of the Kashmir state,

mainly Poonch and Mirpur. The safety of their homes and their families is a matter of serious concern to Pakistan.

Look at it then, from any point of view that you choose: India is under no necessity or compulsion to require or to need the accession of Kashmir to itself. India has merely entered upon a gamble. If it succeeds in that gamble, it can crush and break Pakistan—and that is the object of that gamble. It does not require Kashmir from the point of view of any of its necessities. The possession of Kashmir can add nothing to the economy of India or to the strategic security of India. On the other hand, it is vital for Pakistan. If Kashmir should accede to India, Pakistan might as well, from both the economic and the strategic points of view, become a feudatory of India or cease to exist as an independent sovereign State. That is the stake of the two sides; these are the considerations.

POPULATION AND CULTURAL FACTORS

What remains to be considered is the population factor, to which Indian leaders attached so much importance in the cases of Hyderabad and Junagadh. The State of Jammu and Kashmir is a composite State in the sense that it has two provinces, one being the Province of Kashmir and the other being the Province of Jammu. According to the 1941 census the total population of the State was approximately 4,000,000. These are the latest available figures. In the Province of Kashmir—taken by itself, and apart from Jammu—the Muslim proportion of the population was over ninety-three per cent; in the Province of Jammu, the Muslim proportion of the population was sixty-one per cent. The Muslims were thus in the majority in each of these Provinces. In the State of Jammu and Kashmir, as a whole, the Muslim proportion of the population was over seventy-seven per cent. Those are the facts as far as population is concerned.

But, in addition to the population factor, there are all the cultural ties, all the ties that religious brotherhood has created; there is inter-marriage and there are inter-relationships between the people of West Pakistan and the people of Kashmir, and all the other things that bind any two communities together. Pakistan has always been the natural outlet for the people of Kashmir, both from the tyranny of their ruler and for the development of their culture and their talents. I doubt whether a dozen Muslims of Kashmir could be named who, living under the Maharajah during the last 100 years, have attained to any position of eminence in any walks of life. I challenge anybody to name one dozen who are well known. On the other hand, people from Kashmir, once they have arrived in Pakistan, have always risen to the highest positions. The late Sir Mohammad Iqbal, the very founder and originator of the idea of Pakistan, was a Kashmiri. He resided, of course, in Pakistan itself; he would not have been tolerated in Kashmir. The present Governor-General of Pakistan is a Kashmiri. The present Governor of Sind, in West Pakistan, is a Kashmiri. The present Minister of the Interior in the Central Government of Pakistan is a Kashmiri. It seems that, the moment a Muslim Kashmiri leaves Kashmir and comes to Pakistan, he receives the fullest scope for his cultural and intellectual development, for which there is no room in Kashmir itself. That speaks volumes for the conditions that exist.

Genesis of the Kashmir Dispute

On the establishment of Pakistan, that is to say, on the partition becoming effective on 15 August, 1947, there was great jubilation all through the State of Kashmir, particularly among the Muslims, that the time had come for their liberation from the unspeakable tyranny of the Dogra Raj, against which they had struggled for a hundred years. "Pakistan Day" was celebrated with great enthusiasm by the Muslims throughout the State, including the towns of Srinagar and Jammu. The principal political organisation of the state, namely the Muslim Conference, declared unequivocally in favour of accession to Pakistan. We believe that a good deal of the membership even of the National Conference, of which Sheikh Abdulla is the head, if left to themselves would have favoured accession to Pakistan. The Maharajah's Government entered into a Standstill Agreement with the Government of Pakistan on 15 August, 1947 and, in pursuance of that agreement, the management of the railway line owned by the Government of Jammu and Kashmir and of the postal and the telegraphic services and customs in the State continued to vest in the Government of Pakistan. While this, I believe, was done in order to create an impression among the Muslim sections of the population that the Maharajah intended to accede to Pakistan, it now appears that was not the intention of the Maharajah and that it was merely a device to lull his Muslim subjects into a sense of security and to cause them to believe that the Standstill Agreement would ripen into accession to Pakistan.

The Maharajah almost immediately thereafter embarked upon a systematic plan to import Hindus and Sikhs from East Punjab to over-awe his Muslim subjects into admitting accession to India. He also began to use his troops. Now the whole question is, when did this movement on behalf of the people and this repression on the part of the Maharajah start? According to the representative of India, nothing had happened until 22 October 1947, and what then happened was an incursion of tribesmen into a peaceful state. That, according to him, was what started the whole trouble.

Pakistan, on the other hand, maintains that a vigorous freedom movement had already started within the State and had made considerable progress before the tribal incursion took place. As a matter of fact, the tribal incursion took place as a direct consequence of that movement when it began to be suppressed with all sorts of brutalities and atrocities by the troops of the Maharajah with the Maharajah himself sometimes at their head. Then the people both from Pakistan and from the tribal areas, unable to stand by and witness the further sufferings of their co-religionists in the State, went to their aid.

Now let us see what is the evidence in support of my assertion. I shall first draw the attention of the Security Council to a press note issued by the Maharajah's Government on 12 September, 1947 from which I quote as follows:—

"On 24 August, 1947 large and highly excited mobs collected in West Bagh Tehsil and on the 25th, disregarding all efforts to persuade them to disperse, marched on to Bagh town in the vicinity, where they reached the number of some five thousand,

which swelled considerably during the next two days. These mobs were armed with firearms of various patterns, axes, spears and other weapons."

The measures taken to suppress this movement are the measures which became responsible subsequently for the tribal incursion. Here is an extract from an article which was published in "The Times" of London of 10 October, 1948 by a special correspondent:

"In the remaining Dogra area 237,000 Muslims were systematically exterminated, unless they escaped to Pakistan along the border, by the forces of the Dogra state headed by the Maharajah in person and aided by Hindus and Sikhs. This elimination of two-thirds of the Muslim population of Jammu province has entirely changed the present composition of Eastern Jammu province. Its communications and economic links, until then almost exclusively with West Punjab, have not been and cannot be reoriented so easily towards Pathankot."

Of course, the people of Pakistan were deeply stirred by all these events. They could not remain indifferent when their brethren were being massacred, exterminated, compelled to leave their homes, and seek refuge in Pakistan. That is what caused the tribesmen and some volunteers from Pakistan to go into Kashmir, **but the origin of the conflict must be sought in the Hindu Maharajah's policy of repression of his Muslim subjects.**

Let me quote to the Security Council what Sheikh Abdulla himself said on that point. Sheikh Abdulla gave a press statement in Delhi on 21 October, 1947. The date is significant, it was ahead of any tribal incursion into the State of Kashmir. First, with reference to the strategic position:

"Due to the strategic position that the State held, if this State joins the Indian Dominion, he thought Pakistan would be completely encircled."

That was Sheikh Abdulla's own appreciation of the strategic position. Explaining the difficulties with which the people were beset in making up their minds on the question of accession, Sheikh Abdulla said:

"The happenings in certain States, such as Patiala, Bharatpur and elsewhere, have naturally caused apprehension in the minds of the Muslims in Kashmir who formed the majority of the population. They were afraid that the State's accession to India portended danger to them."

That, according to Sheikh Abdulla, was the state of feeling of the Muslims of Kashmir. Later on in the statement he said:

"The present troubles in Poonch were because of the unwise policy adopted by the State. The people of Poonch who suffered under their local ruler, and again, under the Kashmir Durbar (Ruler), who was the over-lord of the Poonch, had started a people's movement for the redress of their grievances. It was not communal."

That is what the representative of India denies. He said there had been no people's movement; nothing had happened. I do not know what name he will give to Sheikh Abdulla for having made that statement. Sheikh Abdulla went on to say:

"That movement having started, the Kashmir State sent their troops and there was panic in Poonch."

Again, according to the representative of India, the troops were there only to restore law and order and to see that nothing untoward happened. Why, then, was there panic among the people? To whose succour, for whose aid, to protect whom, according to the representative of India, had these troops arrived? But Sheikh Abdulla says:

"The Kashmir State sent their troops and there was panic in Poonch. But most of the adult population of Poonch were ex-servicemen in the Indian Army who had close connections with the people in Jhelum and Rawalpindi. They evacuated their women and children, closed the frontier and returned, with arms supplied to them by willing people. The present position was that the Kashmir State forces were forced to withdraw in certain areas."

That was the position on 21 October. That, in the words of Sheikh Abdulla, the friend and protégé of Prime Minister Nehru, was the genesis of the Kashmir dispute.

I plead guilty on behalf of Pakistan to the charge made by the representatives of India that Pakistan did not do what it should have done to put an end to these things. It should have marched its forces into the State of Kashmir to put an end to the persecution of the Muslims by the Maharajah's State Forces, and also to restore law and order in the areas where it had been disturbed by the tribesmen.

It did not do it because, for one thing, it did not want to extend the area of trouble. For another, I shall show what effort Pakistan was trying to make very soon afterwards with the Government of India to settle this question amicably, peacefully and in a fair and equitable manner.

What had happened up to that time was that the "Free Kashmir" movement had begun. In certain areas this movement defeated and dispersed the forces of the Maharajah. By 26 October the position was that the Maharajah had fled from his capital, Srinagar, and sought refuge in Jammu. From Jammu he wrote a letter to Lord Mountbatten. In this letter he asked for Indian troops and said that inasmuch as he could not obtain them without offering accession, he offered accession. In reply to that letter, Lord Mountbatten said that the question of the State's accession should be settled by reference to the people.

It is noteworthy that the letter of the Maharajah was written on 26 October from Jammu, and that Indian airborne troops landed in Srinagar early in the morning on the 27th. This is a good index of what had gone on behind the scenes in the meantime. Obviously, Pakistan could

not accept the letter of the Maharajah, and Lord Mountbatten's reply as any kind of accession at all.

One has only to compare the position of India with regard to Junagadh to expose the hollowness of its stand with regard to Kashmir. Let India apply whatever principles it chooses to both States and justify them with regard to its attitude respecting each. It would then be possible to judge whether India's measures, standards and ideals with respect to each situation are the same, or whether India merely adjusts its standards, ideals and declarations with regard to each situation as might be beneficial to India itself.

Negotiations for a Peaceful Settlement

Pakistan made repeated efforts for a settlement of the Kashmir dispute by direct negotiations with India. On 28 or 29 October the Governor General of Pakistan made an offer to the Governor General of India that the best way to deal with the situation and to resolve it peacefully was the following: Let the two Governors General be authorized by their respective Governments to deal with the situation. Then let them take steps to stop the fighting—restore law and order—even if that should necessitate military action being taken against the tribesmen who had committed these incursions. That having been done, let everyone who had gone into the State withdraw simultaneously. That meant the Indian Armed Forces, the tribesmen, the Pakistan volunteers, and anyone else who had gone into Kashmir. That having been done, let the administration of the State be assumed by the two Governors General. Let them then proceed to organize a free and impartial plebiscite for the people of the State of Jammu and Kashmir to decide whether they wanted to accede to India or to Pakistan.

I should like to know what was there in this offer which was open to objection, and whether it was not a statesman-like offer to end the situation in a peaceful, fair, just and equitable manner.

That is the contribution that Pakistan attempted to make towards the solution of this problem and stopping the fighting which was going on within the State. It was not accepted; it was turned down.

The objection taken was that constitutionally it was embarrassing for the Government of India to invest their Governor General with such authority. I shall not comment on that, but we had made that offer, and I again repeat that it was the fairest offer that could in the circumstances be made. It could give no advantage to either side, and it left the issue of the accession in the hands of the people of the State. Then, later on, the reply that was actually received in writing to this offer is contained in a telegram from the Prime Minister of India to the Prime Minister of Pakistan, dated 8th November, 1947. I shall read out paragraphs ten and eleven in which this was stated:

"It will thus be seen that our proposals"—that is, India's proposals—"which we have repeatedly stated are: one, that the Government of Pakistan should publicly undertake to do their utmost to compel the raiders to withdraw from Kashmir; two,

that the Government of India should repeat their declaration that they will withdraw their troops from Kashmir's soil as soon as the raiders have withdrawn and law and order are restored; that the Governments of India and Pakistan should make a joint request to the United Nations to undertake a plebiscite in Kashmir at the earliest possible date."

This is all that we have insisted upon during the last two years. But the efforts of the Security Council, of the United Nations Commission for India and Pakistan and such efforts as we could make to persuade the Government of India to carry out this undertaking, have so far unfortunately failed. I now continue quoting:

"The above conclusions relate only to Kashmir, but it is essential in order to restore good relations between the two Dominions that there should be acceptance of the principle that where the Ruler of a State does not belong to the community to which the majority of his subjects belong and where the State has not acceded to that Dominion whose majority community is the same as the State, the question whether the State has finally acceded to one or the other Dominion should be ascertained by reference to the will of the people."

These proposals were not exactly what we had offered, but we nevertheless agreed to treat them as a basis for further negotiations. We also suggested that the whole dispute between the two Dominions over these matters should be referred to the United Nations. I quote from a press statement of the Prime Minister of Pakistan on 14th November, 1947 in the course of which he said this:

"The fundamental principle of the Charter of the United Nations is to prevent might prevailing over right. The whole dispute should therefore be brought before the bar of international opinion. We are ready to request the United Nations immediately to appoint its representatives in the Jammu and Kashmir State in order to put a stop to the fighting and to the repression of Muslims in the State; to arrange the programme of withdrawal of outside forces; to set up an impartial administration of the State until a plebiscite is held; and to undertake the plebiscite under its direction and control for the purpose of ascertaining the free and unfettered will of the people of the State."

Also, in a telegram addressed to the Prime Minister of the United Kingdom, dated 22 November, 1947 the Prime Minister of Pakistan said this:

"The above analysis shows that: first, fighting must stop and all outside forces must withdraw; and secondly, which is no less essential, that the Kashmir administration must be taken over by an impartial and independent authority immediately. Not until these conditions are fulfilled is there any hope of getting a

free plebiscite which, in our opinion, need not wait until the spring.

"I hope you now realize the actual position. If you will consider these basic facts, you will, I hope, support our proposal that the United Nations should immediately send out a commission to undertake the tasks outlined in the paragraph above."

Although the two Governments have agreed that this question should be decided by the free and unfettered expression of the will of the people, there has been a difference all through between the two Governments as to what would constitute conditions which would guarantee a free expression of the will of the people. There is one factor which I trust the Security Council will note, and it is this: In the case of Junagadh, India insisted that the plebiscite should be undertaken by the Government of India and the State of Junagadh. We have not in the case of Kashmir at any time suggested, much less insisted, that the plebiscite should be undertaken by the Government of the State of Jammu and Kashmir and the Government of Pakistan, excluding from it the Government of India. All the logic that there might be behind India's suggestion with regard to Junagadh surely applies to the Kashmir case too. But we did not consider that fair. We could not either to ourselves or to anybody else pretend that under those circumstances a plebiscite would be fair. We therefore were completely willing, and have been willing throughout—as a matter of fact we have insisted—that the plebiscite should be undertaken by an impartial authority under conditions which should make it really free and impartial. And that is the whole crux of the matter and the whole difference between the Government of India and ourselves. **We insist as a minimum for the conditions of a free and impartial plebiscite that all foreign troops and other fighting elements which have come from outside should be withdrawn from the State; that a non-partisan administration should be set up in the State of Jammu and Kashmir; and that the plebiscite should be organized and conducted by and under the authority of the United Nations.** But if anybody says, "oh, but what you suggest would not enable anybody who wants to vote for accession of Kashmir to India to vote for it." Let that condition be modified. What is there in these conditions which would force anybody to vote one way when he wanted to vote the other, and what is it to which anybody could take any reasonable exception?

Then the matter was not brought to the U.N. as we had suggested. We had suggested that we should both join in taking the matter to the United Nations and abide by such arrangements as they might make for a free and impartial plebiscite. India chose to come to the Security Council as a complainant against Pakistan. Nevertheless, Pakistan welcomed the reference to the United Nations.

Reference of the Kashmir Dispute to the Security Council

The Kashmir dispute came up before the Security Council on 1 January, 1948. After careful consideration of the whole matter the members of the Security Council expressed certain views on the situation and what measures, in their opinion, would bring about a peaceful solution.

I shall draw attention to only three or four brief quotations. At the two hundred and thirty-fifth meeting of the Security Council on 24 January, 1948, Ambassador Warren Austin (U.S.A.) said:

"It seems to me that our advice to the two parties should be—and that is what they are asking for when they come here—that they proceed with the Kashmir matter, without prejudice to the other question, complete the negotiations that are now pending and, with respect to the media and methods of creating those conditions, arrange an interim government that is recognized as free from the smell of brimstone, as nearly impartial and perfect as two great countries like India and Pakistan can make it, in which the rest of the world will have confidence as being fair." (S/P.V. 235, pp. 117-120.)

At the same meeting Mr. de la Tournelle (France) said:

"I feel that three conditions are required in connection with this plebiscite. In the first place, all foreign troops must be removed from Kashmir. Secondly, all original inhabitants of Kashmir, both Muslim and Hindu, must be allowed to return to their places of residence there. Thirdly, a free administration must be set up in Kashmir which will not exercise any pressure on the population and will thus ensure the fairness of the plebiscite." (S/P.V. 325, p. 136.)

At the next meeting of the Council—the two hundred and thirty-sixth meeting held on 28 January, 1948—Mr. Noel-Baker (U.K.) stated:

"In my conception, infinitely the best way to stop the fighting is to assure those who are engaged in it that a fair settlement will be arrived at under which their rights will be assured. In other words, as I remarked to the representative of India in our first talk after his arrival, in my profound conviction, a settlement arrived at quickly in the Security Council is the real way to stop the fighting. The whole thing, from the preliminary measures as to the fighting right up to the conduct of the plebiscite in the end is all one problem. Only when the combatants know what the future holds for them will they agree to stop." (S/P.V. 236, pp. 77-78.)

Finally, at the two hundred and thirty-seventh meeting of the Council, Dr. Tsiang (China) observed as follows:

"It is obvious that the key to the problem lies in the plebiscite. If the principle of a free and impartial plebiscite for deciding the all-important question of the accession of Kashmir to India or Pakistan should be accepted, much of the incentive to violence and the use of force would be removed."

On the other hand, unless we restore peace in Kashmir, such a plebiscite would not be possible." (S/P.V. 237, pp. 26-27.)

The Security Council propounded a resolution on 6 February, 1948—

known technically as the van Langenhove and McNaughton resolution—which contained the crystallized views of the Security Council.

The main provisions of the draft resolution were that the question as to whether the State of Jammu and Kashmir should accede to Pakistan or to India should be decided by the democratic method of a plebiscite to be held, as recognized by the parties, under the auspices of the United Nations to ensure complete impartiality; secondly, that fighting should stop; thirdly, that all irregular forces and armed individuals who had entered Jammu and Kashmir from outside should withdraw; and, fourthly, that the Indian and Pakistan Armies should co-operate.

It was further provided that citizens of the State of Jammu and Kashmir who had left on account of the disturbances there should be invited and should be free to return in order to participate in the plebiscite. It was also provided that an interim administration should be set up which should command the confidence and respect of the people of the State, and that the plebiscite must be organized, held and supervised under the authority of the Security Council.

After six members of the Security Council had spoken in support of the draft resolution, the Indian Representative—who had made no secret of his dislike of the Security Council's proposal—went back to Delhi for consultation. When the discussion was resumed a month later, the Security Council adopted a resolution on 21 April, 1948 which was in several respects more favourable to India. Even so, India refused to accept it. Pakistan's only objection to the resolution was that it did not embody the authoritative explanations given by the sponsors of the resolution in the course of the discussions preceding its adoption.

However, whatever the attitude of the parties, the resolution was adopted by the Security Council, and in pursuance of that resolution the United Nations Commission for India and Pakistan was directed to go to the Sub-Continent and place its good offices at the disposal of the two Governments in order to implement the resolution of the Security Council.

Indian Attempt to Overrun Kashmir and Entry of Pakistan Troops

While the Security Council was debating the Kashmir case, India, in spite of the Council's appeal to both parties to do nothing to aggravate the situation, was building up its forces in the State for an all-out offensive in Kashmir. This was launched early in April, 1948. This led to a very large exodus of Kashmiri Muslim refugees to Pakistan and threatened the very security of Pakistan itself. The Indian forces advanced menacingly towards the borders of Pakistan and threatened the headworks of the Jhelum canals at Mangla which is located inside the State of Kashmir.

India made no secret of its real intentions.

On 15 March, 1948, the Indian Defense Minister announced in the India Constituent Assembly that the Indian Army would clear out all resistance from Kashmir's soil in the next two or three months. India's military preparations corresponded with its publicly declared intentions.

The London "Times" of 13 April, 1948 had a communication from its special correspondent at Srinagar, in the course of which this was stated:

"The Indian Army has worked extremely hard during the winter months and its position has been much improved. In spite of snow storms and rain and the resulting drifts, mud and landslides, it has doggedly moved up supplies and reinforcements, improved roads and airfields and intensified the training of its troops. Logistically, it has won a notable victory, but even now in April, traditionally the month for a spring offensive, this necessary phase has not been completed. The road between Jammu and Srinagar, which winds over the Banihal Pass, is still snow-covered and convoys are often snowbound. To improve communications a daily air service has been organized although weather conditions will make flying unsafe for at least two or three weeks. But the force has been considerably strengthened and it should be soon ready for a limited offensive. Already some units have advanced from Rajauri in Jammu and from Uri and some small successes have been reported. Fighting is bloody. Few prisoners are taken and acts of barbarism have been committed by both sides. Many Pathans have been decapitated by Sikh troops."

That was some weeks before Pakistan moved any of its forces in, but there is no doubt whatsoever that India was mounting an offensive to clear the State of all military resistance. What was Pakistan at that time faced with? So far as its own security was concerned, it was faced by a deadly danger. Once the whole State was militarily occupied, Pakistan's flank was completely broken. It was also faced with the prospect that the irrigation system based on the River Jhelum might be ruined.

At that stage the Government of Pakistan received an appreciation of the military situation from its Commander-in-Chief, dated 20 April, 1948, from which I quote:

"General military situation: (a) The build-up of the Indian Army for an all-out offensive in Kashmir started towards the end of February 1948 at a very rapid rate. 8 brigade groups, complete with supporting arms, artillery, armor, engineers etc. backed by a considerable air force of fighters, bombers and transport aircraft are at present deployed in Jammu and Kashmir and the process of building-up continues but appears to be almost complete now. On 15 March, 1948 the Indian Defense Minister announced in the Indian Constituent Assembly that the Indian Army will clear out the so-called raiders from Kashmir within the next two or three months. So far the main concentrations are in the South, i.e. in the area Jammu-Naushahra; at least one additional brigade group is already reported to have moved into the Valley. There are also indications of two separate commands being organized, one in the Valley and one in the Jammu area. The offensive on a limited scale appears to have started already and Rajauri was captured by Indian troops on 12 April. This was followed by a reign of terror which included the burning of villages, the massacre

of the civilian population and other atrocities. Four thousand men are reported to have been victimized in this manner and great panic and confusion prevailed in the area.

(b) **Deduction:** It is obvious that a general offensive is about to start very soon now. The present dispositions suggest that it will first start in the South with Bhimber and Mirpur as the most likely objectives with a view to coming right up to the Pakistan border."

This is a long appreciation and I shall not quote the body of it. I shall go on to the summary of deductions towards the end:

"Summary of Deductions: (a) That a general offensive is being planned by the Indian Army in the North and the South is a certainty. Their objectives are likely to be as follows: South: (i) Bhimber-Mirpur, (ii) Poonch; North: Muzaffarabad-Kohala.

(b) Judging from what has happened in Rajauri, an advance by the Indian Army in any of the above areas is almost certain to create a big refugee problem for Pakistan, which is already saturated. Refugees will be an extremely serious strain on the civil administration and a heavy drain on the country's economic and financial resources. From this point of view alone it is imperative that the Indian Army is prevented from gaining any of the above objectives.

(c) Occupation of Bhimber and Mirpur will give India the strategic advantage of having crossed two major obstacles, i.e. the Rivers Ravi and Chenab, and of coming right up to the Pakistan border, thereby sitting on our doorsteps, threatening the Jhelum Bridge which is so vital for us and getting further opportunities for intrigue etc. It would also give them the control of the Mangla headworks, thus placing the irrigation in Jhelum and other districts at their mercy.

(d) Occupation of Poonch by the Indian Army is certain to have a most serious effect on the morale of the many Poonchis in the Pakistan Army and this in turn will adversely affect the morale of other troops. Desertions will undoubtedly increase and discipline will receive a big set-back.

(e) The loss of Muzaffarabad or Kohala will, broadly speaking, have the most far-reaching effect on the security of Pakistan. It would enable the Indian Army to secure the rear gateway to Pakistan through which they can march in at any time they wish to do so, without any major obstacle such as the river Jhelum to stand in their way. It will encourage subversive elements such as Khan Abdul Ghaffar Khan and his party, Ipi, and Afghanistan; and it will certainly cause extreme panic and alarm in some of the adjoining districts of the N.W.F.P. and Punjab resulting in the mass exodus of population which will create an insoluble refugee problem within Pakistan itself.

(f) *An easy victory of the Indian Army in any of the above mentioned sectors, particularly in the Muzaffarabad area, is almost certain to arouse the anger of the tribesmen against Pakistan for its failure to render them more direct assistance and might well cause them to turn against Pakistan.*

Recommendations: *If Pakistan is not to face another serious refugee problem with about 2¾ million people uprooted from their homes; if India is not to be allowed to sit on the doorsteps of Pakistan to the rear and on the flank at liberty to enter at her will and pleasure; if the civilian and military morale is not to be affected to a dangerous extent; and if subversive political forces are not to be encouraged and let loose within Pakistan itself, it is imperative that the Indian Army is not allowed to advance beyond the general line Uri-Poonch-Naushahra."*

I put it to the representatives on the Security Council that if they, in their respective spheres, were charged with the responsibility of the defense and the security of their own countries, and they received this report from their Commander-in-Chief—and in this case it was not a Pakistan national who had made the report, the Commander-in-Chief was and is General Sir Douglas E. Gracey, a distinguished British officer—and if they were convinced that this was the situation, what is the very least that they would have done in the circumstances? Pakistan did that very least and no more. It sent in its troops to hold that line. It did so in the first week of May, 1948.

The question that was asked us was, why did you not notify the Security Council? Did the Government of India, in mounting their offensive, notify the Security Council?

We did, however, notify the U.N. Commission within a day of its arrival in Pakistan on 7 July, 1948. On the morning of 8 July I gave the Commission the most detailed and complete information on the military situation that existed then, including the presence, the number and the disposition of the Pakistan Armies in Jammu and Kashmir.

Settlement Negotiated by United Nations Commission for India and Pakistan

I must pay tribute to the members of the Commission in respect of their activity on the Sub-Continent. They undertook a great deal of physical discomfort and put in a lot of work in an attempt to bring the two Governments together with regard to some agreement which might result in the holding of a fair and impartial plebiscite.

After several journeys and discussions backwards and forwards, they were able to put forward their resolution of 13 August, 1948. The resolution of 13 August, 1948 could not be accepted by the Pakistan Government for this main reason: that, though it dealt with the cease-fire and, also, with the truce agreement and arrangements, all that it said with regard to the plebiscite was that the future of the State of Jammu and Kashmir

would be settled in accordance with the wishes of the people. **Pakistan insisted, having had experience of the attitude adopted by India from time to time, that, before it would agree to the cease-fire and the truce, it must know that fair, just and equitable conditions had been agreed to by India with regard to the holding of the plebiscite.**

Eventually, the Commission took up the question of elaborating Part III of the resolution of 13 August, 1948, and they adopted their second resolution of 5 January, 1949. The combined resolutions were accepted by both India and Pakistan.

What did the resolutions, taken together, provide? First, that there should be a cease-fire and that, following the cease-fire, a cease-fire line should be demarcated on the ground. I need not revert to this because the cease-fire became effective on 1 January, 1949, and agreement on the demarcation of the cease-fire line was reached on 27 July, 1949. Secondly, the State was to be demilitarized in two stages. The truce stage was dealt with in the resolution of 13 August, 1948, and the plebiscite stage in the resolution of 5 January, 1949. When cease-fire orders came into effect, the armed forces engaged in Kashmir were constituted as follows: On the Pakistan side there were the tribesmen, the nationals of Pakistan who had entered the State for the purpose of fighting, the regular troops of the Pakistan Army, and the Azad Kashmir Forces. On the Indian side, the forces engaged were the regular troops of the Indian Army, Indian nationals who had entered the State for the purpose of fighting, the State military forces, and the Jammu and Kashmir State Militia. The agreed arrangements for the disposal of these forces were as follows:

First, Pakistan was to use its best endeavours to secure the withdrawal of tribesmen and Pakistan nationals who had entered the State for the purpose of fighting. Although this obligation arose only after the signing of the truce agreement, the Pakistan Government, in their earnest desire to promote peace and to bring nearer the plebiscite, have already carried out the undertaking.

Next, what was envisaged was the withdrawal of the regular forces of India and Pakistan, so arranged that Pakistan would take the first step, but after Pakistan troops had begun to withdraw India undertook to begin the withdrawal of its forces in stages to be agreed with the Commission. **The Commission assured the Pakistan Government that the withdrawal of the Pakistan army and the withdrawal of the bulk of the Indian army would be synchronized with the two High Commands.** (Vide U.N.C.I.P's letter dated 27 August, 1949, to the Foreign Minister of Pakistan which is annex 27 to the Commission's First Report.)

Under clause 4 of the resolution of 5 January, 1949, the Plebiscite Administrator was authorized to determine the final disposal of the Indian forces remaining in the State after the withdrawal of the bulk of the Indian forces, and of the Maharajah's State forces and the State Militia, on the one hand, and, on the other, the final disposal of the Azad Kashmir forces, having due regard to the security of the State and the freedom of the plebiscite.

That was the scheme of demilitarization that was established by these two resolutions. There is nothing imperfect there; there is no loophole.

The whole thing, the whole programme of demilitarization had been taken care of.

A further feature of this resolution of 5 January, 1949 was that it made provision, after the demilitarization of the State, for the carrying through of the arrangements for the holding of a plebiscite. For that purpose, the Commission's resolution of 5 January provided for the appointment of a Plebiscite Administrator by the Secretary-General of the United Nations. He was to be a man of high international standing commanding general confidence, and **he was to have all the powers which he considered necessary to hold a free and impartial plebiscite.** The main conditions under which the plebiscite would be held were also laid down.

It will be perceived that in accepting this composite resolution the Pakistan Government had to give up one of the main guarantees of a free and impartial plebiscite—namely, the setting up of a non-partisan or coalition Government in Kashmir which would minimize governmental interference with the freedom of the vote in the plebiscite.

The representative of India said that the integrity of the Kashmir State must be maintained. There should not be two authorities. I submit that there is no escape from the position that either there has to be one authority for the whole of the State, and that authority must be acceptable to the people of the State. That is what the Security Council tried to bring about—in its draft resolution of 6 February, 1948. Or, as the resolution of 21 April, 1948 said, there must be a coalition government in which both the principal political parties would be represented.

The Government of India, however, is not willing to accept either of these alternatives. Do they expect either the Pakistan Government to agree, or even the Security Council to suggest, that the Government set up by the Indians in the area under their control should be accepted by Pakistan and by the Azad Kashmir people as the authority which should administer the whole of this State as one unit for the purpose of holding a free and impartial plebiscite? If that is expected it cannot be achieved. Therefore, either they must agree to an impartial administration for the whole of the State—we have never objected to this, but are willing and quite certain that we could persuade the Azad Kashmir people to agree—or, if they will not accept that, there is no escape from the position that the Abdulla administration must continue to exercise authority on his side of the cease-fire line, and that the present local authorities—as they have been described out of deference to India's susceptibilities with regard to the expression "Azad Kashmir Government"—must continue to exercise authority on the other side of the cease-fire line. How else can the integrity of the State be maintained? That was clearly recognized by the Government of India when it accepted the U.N.C.I.P. resolutions.

The Government of India succeeded in dissuading the Commission from making an attempt to set up a non-partisan or coalition government to administer the whole State. They were, in that way, able to destroy one of the chief guarantees of a free and impartial plebiscite. Pakistan accepted this handicap in the hope that the other guarantees for a free and impartial plebiscite, namely, demilitarization of the State, and the holding of the plebiscite under the supervision and control of the United Nations, would

remain unimpaired. India's attempt throughout has been to get rid of these guarantees as well.

Withdrawal of Indian-Pakistan Forces

When the Commission returned to the sub-continent in February, 1949, it started consultations with both Governments with regard to the programme of withdrawal of the Indian and Pakistan Forces. Our High Command discussed with the Commission our suggestions with regard to withdrawal of troops and demilitarization, and on 9 March, at a conference held in New Delhi, our representatives submitted to the Commission our proposals with regard to the putting into effect of that part of the resolution which sought to secure the withdrawal of the Pakistan Army and the bulk of the Indian Army. We were given to understand that, if we were to lay on the table our plan for the withdrawal of troops and the securing of demilitarization, the Government of India would do the same. In that connection, I should like to draw attention to paragraph 168 of the Commission's Third Interim Report, appearing on page 39:

"The joint meetings began in New Delhi on 9 March. The first meeting was devoted largely to the consideration of the cease-fire line. The Pakistan delegation, understanding that the Indian delegation would respond in like manner in a subsequent meeting, presented a comprehensive scheme (Annex 10) for the implementation of Part II of the 13 August Resolution."

The Government of India subsequently put off the presentation of its scheme. When it did communicate its scheme to the Commission, it insisted that its proposal for the withdrawal of the bulk of the Indian Army should not be disclosed to Pakistan until the truce agreement had been signed (vide paragraph 232 of the Commission's Third Interim Report). To this day the Indian truce proposals have been withheld from us though ours were communicated to India.

How were we to accept a programme of withdrawal of forces, or be satisfied with any proposed synchronization unless, firstly, we were satisfied that the scheme provided for the withdrawal of the bulk of the Indian forces, and, secondly, the withdrawal was to be synchronized even though it was to be begun by the Pakistan Army first?

Then the Commission communicated to the Government of India its own plan for the withdrawal of the bulk of the Indian forces from Kashmir. The Government of India objected to the Commission's communicating even this plan to Pakistan, and the Commission submitted to that ban also. Accordingly, we do not know what the Commission proposed to the Government of India both with regard to what would constitute the bulk of the forces and with regard to what should be the stages of the withdrawal. These proposals—the plan of the Commission itself—have not been communicated to the Security Council either, although our full plan of withdrawal is naturally available to the Security Council.

But though the Indian plan of withdrawal has not been disclosed to us, the Commission's report makes it clear that this plan does not fulfill

India's undertaking under the Resolution. In this connection I would draw the attention of the Security Council to paragraph 245 of the Commission's third report, which reads as follows:

"As has been seen from the discussion of the Azad problem and from the foregoing discussion of withdrawals, India is not prepared to withdraw such part of her forces in Kashmir as might be characterized as 'the bulk' whether measured quantitatively or qualitatively unless agreement with Pakistan on the large-scale disbandment and disarming of the Azad forces is reached."

It appears from the Commission's report that although the Indian forces in the State are more than double the strength of the Pakistan forces, the Government of India, against the withdrawal of twenty-eight Pakistan battalions, is not prepared to withdraw more than twelve Indian battalions. I suppose it describes twelve battalions as the bulk of its forces. Whether it is twelve or whether it is otherwise **I make one offer to India, and it is this. Let them retain in Kashmir what they have described to the Commission as "the bulk" of their forces and withdraw the remainder.** Obviously they want to keep the bulk of Kashmir. This is the main reason of the deadlock, and why progress cannot be made towards the organization and holding of a plebiscite.

Disposal of Azad Kashmir Forces

I shall now go on to deal with the problem of the disposal of the Azad Kashmir forces. The Azad Kashmir forces, it must be realized, consist of nationals of the State of Jammu and Kashmir. They are not people who have come from outside; they are people who started this freedom movement towards the end of August 1947. But these people were not just mere rabble or just ordinary citizens who had had no military experience. The vast majority of them were ex-servicemen of the Army of undivided India, and there were others who were at one time in the Kashmir State Forces, but later joined the freedom movement.

The next thing to remember with regard to the Azad Kashmir Forces is that they are entirely an infantry force with no artillery, no armour and no air force. Their strength is thirty-two battalions, although it should be remembered that a battalion of the Azad Kashmir Army consists of 650 men as against 840, of which an Indian or Pakistan battalion is composed. Even in respect of the military equipment that they do possess, Azad battalions are much inferior in armament and equipment to regular Indian or Pakistan battalions. Nevertheless, it is a fact that in 1947 and the early part of 1948, these Azad Kashmir Forces routed the Maharajah's forces, and that they put up a gallant fight against the Indian forces which came into Kashmir.

It is alleged that the Azad Forces have been augmented and strengthened since 13th August, 1948, and the representative of India maintained that:

"this was contrary to the understanding that Pakistan would not use the period for consolidating its position or increasing its military potential."

It becomes necessary, therefore, first to see whether there has been any change, and if so of what description in respect to the Azad Kashmir Forces. If there has been any change, when did it take place, and was it, if it took place, contrary to any understanding or undertaking?

The "understanding" to which the Indian representative refers is presumably part I of the 13th August resolution which called upon India and Pakistan to refrain from taking any measures which might "augment the military potential of the forces under their control in the State of Jammu and Kashmir." It should, however, be realized that this resolution became binding only after it had been accepted by both parties, i.e. after 25 December, 1948. Secondly, it could come into operation only after hostilities had ceased; and, thirdly, it was binding as much upon India as on Pakistan. It was India which, in utter disregard to the U.N.C.I.P.'s appeal, went on augmenting its forces in Kashmir and launched a large scale offensive in November, 1948, to conquer the whole State. Pakistan brought these facts to the notice of the Security Council on 22 November, 1948.

It has been suggested by the Indian representative that the Commission did not have a complete picture of the strength of the Azad Forces before it when it formulated its proposals of 13 August, 1948. This is not in accord with facts. Full information with regard to the strength, equipment and disposition of the Azad Kashmir Forces was furnished to the Commission by the Pakistan High Command on 9th August, 1948. The strength of the Azad Forces was then approximately 35 battalions. They have since been reduced to 32 battalions. There has thus been a decrease—not an increase—in these forces.

The next question to consider is whether India is right in contending that the Commission's Resolutions required that the Azad Kashmir forces should be disbanded and disarmed during the truce stage, or whether Pakistan is correct in contending that this has to take place during the plebiscite stage. On that, of course, the best evidence is the language of the Resolutions themselves. In that respect, I would first submit that the Resolution of 13 August, 1948, which deals with the cease-fire and the truce, makes no reference to the Azad forces whatsoever, and that in itself is conclusive evidence that the disbanding and disarming of the Azad Kashmir forces, such as was later contemplated, was not to take place under that Resolution, that is to say, not during the truce stage. This was repeatedly explained both to Pakistan and to India.

On 31 August, 1948, there was a meeting between the Commission and myself in Karachi, when we were exploring and clarifying the implications of the provisions of the Resolution of 13 August, 1948. I shall quote from the official minutes of that meeting, from the beginning of paragraph 9:

"Mr. Korbel (Chairman of the Commission) continued that the Commission had taken great pains to assure the military balance on both sides and the element of balance had been continually at the back of the Commission's mind while drafting the resolution. He asked the Foreign Minister to take note of the fact that, even after the withdrawal of the Pakistan Army, the Azad Forces would still muster 35 battalions of armed people who were not asked to disarm or to withdraw."

In the Commission's letter of 19 September, 1948, appearing on page 51 of the Commission's first Report, addressed to me, sub-paragraph 2(c) reads as follows:

"Moreover, the Commission agrees that it will be anxious to reduce the truce period to a minimum and that the resolution does not contemplate the disarmament or disbanding of Azad Kashmir forces."

(The reference in the letter is to the resolution of 13 August, 1948.) A similar explanation was given by the Commission to the Government of India. I now quote from the summary record of the meeting of 17 August, 1948—four days after the date of the resolution—between the Commission and the Prime Minister of India. (Annex 12, page 3 of the Commission's First Report.) This records the statement of the Commission's chairman:

"Moreover, he pointed out that limited Government of India forces would remain and that on the other side only the Azad people would remain in their positions."

But let us go on to the resolution of 5 January, 1949. Paragraph 4 (a) of that resolution reads as follows:

"After implementation of parts I and II of the Commission's resolution of 13 August, 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces; such disposal to be with due regard to the security of the State and the freedom of the plebiscite."

The second part of the paragraph reads as follows:

"As regards the territory referred to in A.2 of Part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities."

It is as clear as anything could be that in the whole scheme of demilitarization, the disbanding and disarmament—or call it the final disposal—of the Azad Kashmir forces was to be undertaken at the plebiscite stage, and along with the final disposal of the remaining Indian forces, and of all the armed forces of the State of Kashmir. As late as 18th February, 1949—after the acceptance of both the resolutions of U.N.C.I.P.—the correct position with regard to the Azad Kashmir forces was known to and accepted by the Government of India.

I would draw the attention of the Security Council to paragraph 3 of Sir Girja Shankar Bajpai's letter dated 18 February, 1949, to the Commission, (Annex 7 of the Commission's Third Report), which reads as follows:

"The disarming of Azad forces is really a matter of chronology. First there must be a cease-fire and, after that, a truce, as envisaged in Parts I and II of the Commission's Resolution of the 13th August, 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of

conditions in which Kashmir nationals can return to the area now in the occupation of Azad Kashmir forces. So far as non-Muslims are concerned, such a movement will not take place until large scale disarmament of these forces has been carried out."

But, later on, the Government of India began to change its position. In his letter of 10 March, 1949, to the Commission, which is Annex 11 to the Commission's Third Interim Report, Sir Girja Shankar Bajpai states the following:

"Pakistan forces must be withdrawn entirely from Jammu and Kashmir State territory and the disposal of the so-called Azad Kashmir forces during the period of the truce must be so arranged as to prepare the way for the ultimate disbanding and disarming of these forces."

Here, again, although the position has been shifted, all that is asked for at that stage is that preparations must be made for the disbanding and disarming of these forces at a later stage.

The Commission perceived what was intended and replied to Sir Girja Shankar Bajpai on 14 March, 1949. This reply appears as Annex 12 to the Report, and I quote the second sentence of paragraph 2:

"In the course of the conversations last August the Commission explained to the Government of Pakistan that in its view a 'military balance' would exist in the State of Jammu and Kashmir during the Truce period in the sense and to the extent that the Resolution of 13 August did not call for the disarming or disbanding of the Azad Kashmir forces, which the Commission understood to number approximately 35 battalions."

Then, there is a letter from the Government of India to the Commission dated 28 March, in which they say—and I am quoting from page 3 of Annex 16 to the same Report—that they adhere to the position that nothing should be done after the withdrawal of the Pakistan forces *"which would enable the territory evacuated by the Pakistan troops to be consolidated in any way during the period of the truce to the disadvantage of the State. The Government of India adhere to this view and reaffirm their request that action should be taken to disband and disarm the so-called Azad Kashmir forces."*

When this was encountered, we wrote a letter on 14 April. I quote from sub-paragraph 3 of paragraph 7, where we made this offer:

"After the publication of the truce agreement, and as soon as the regular forces on both sides have begun to withdraw, discussions under clause 4 of the resolution of 5 January 1949 regarding the final disposal of the Indian and State forces, on the one hand, and of the Azad forces, on the other, may be initiated. Any agreement reached as a result of these deliberations would not preclude the Plebiscite Administrator from taking any further action with regard to the Indian and State forces and the Azad Kashmir forces at a later date."

Thus, we practically met the request of the Government of India made on 10 March, 1948.

In its letter of 28 April forwarding its truce terms to the Government of India, the Commission stated:

"The Government of India will understand that the Commission cannot deal at this stage with the question of disbanding and disarming the Azad Kashmir Forces since it does not fall within the purview of the resolution of 13 August. Nevertheless, the Commission appreciates the significance of the question and is anxious to consider it without delay.

"While the Commission cannot share the view of the Government of India that a reduction of its forces beyond the strength mentioned in your letter of 17 April, 1949 must depend upon the actual disbanding and disarming of the Azad Kashmir Forces, it is convinced that an early study of the matter would hasten the preparations for the plebiscite." (Third Report, Annex 22, paragraph 4 (a).)

We had already offered the early study of the matter.

Now who has been responsible for obstructing the further progress of the plebiscite, based on the recital of these facts? That is for the Security Council to determine. Has the Pakistan Government in any manner gone back upon what it had agreed to do? Or is the Government of India seeking to go back upon what it has agreed to do with regard to that stage?

Administration and Defense of the Northern Areas

The next question that deserves the attention of the Council is the question of the administration and defense of the Northern Areas. The northern areas were defined by the Commission in paragraph 5 (a) of its letter dated 16 April, 1949, to the Government of Pakistan as: *"the area of the State north of the positions presently occupied by the Indian Army with the exception of Gilgit Subdivision and Agency."*

The question of these areas was first raised with the Commission by the Prime Minister of India in his letter of 20 August, 1948. With regard to this there appears to be some misconception in the minds of the Commission members themselves, though in their final report they presented the situation as it stands. However, they appear to have been under the impression that the position with regard to the Northern Areas was somehow consolidated on our side of the cease-fire line between 13 August—that is the date of the first resolution—and 5 January—the date of the second resolution. That, in fact, is not so.

Actually, on 20 August, the day on which the Prime Minister of India wrote his letter to the Commission, the Government of the State of Jammu and Kashmir was not responsible for the administration of one inch of the territory comprised within what is now known as the Northern Areas, and the armed forces of the Government of India or of the State were not in occupation of one inch of this territory on that date. The actual position was that a considerable amount of the territory which was included within these areas and which was in the occupation of the Azad Kashmir Forces was subsequently taken away by the Government of India in its offensive of November, 1948.

In his letter Pandit Nehru maintained that the authority of the Maha-

raja over the Northern Areas had been disturbed only by "roving bands." There is no question of "roving bands." The population, as the Commission has stated, is 100 per cent Muslim in these areas. They had risen in revolt against the authority of the Maharaja in October-November, 1947. They excluded everyone who had any connection with the Maharaja in that area, and ever since then no one has ever returned except in those areas taken as a result of India's military action in November, 1948. There is no question of the situation having undergone any change in the Northern Areas between 13th August, 1948 and 5th January, 1949. India asked to be permitted to place garrisons in the Northern Areas for purposes of security. The Commission said that this was a matter which could be taken into consideration at the time of the implementation of the resolution. Pakistan was not consulted about, and was not a party to, this undertaking.

But even from the point of view of security, what is it that India is anxious to safeguard? Against whom is security being sought? The cease-fire line has been drawn and both sides are under an obligation not to violate it. The cease-fire has been in operation for over thirteen months and, with the exception of a few minor incidents, there have been no serious violations of the cease-fire line. What is it that the Government of India wants to provide against by putting military garrisons in places which have never been under their military occupation at any time during the history of this dispute and which are on the other side of the cease-fire line? Well, it may be said, security against the incursions of tribesmen. In that connection, the other day the representative of India, when he was addressing the Council, raised this point. He said, "well, it is said that the Government of Pakistan has offered an assurance that they would deal with any contingency of that description that might arise within their own areas and their own frontiers, even if it necessitated military action." He said, "well, that would not work for the reason that if the Government of Pakistan were not able to stop the incursion of tribesmen in 1947, how is it possible that they would be able to stop the incursion of tribesmen now in 1950 or 1951, until the plebiscite has been held, organized and completed?"

Now, there is a fundamental misconception at the basis of that apprehension or argument. In the first place, let me call attention to the assurance which we did convey, and that in itself will show why such an assurance can become effective. I would invite the Council's attention to my letter dated 28 November, 1948 to the Chairman of the Commission. I shall now quote from the middle of paragraph 4:

"The Government of India have, however, pressed for the retention of Indian Forces in Kashmir for purposes of defense as well as of internal security. The Pakistan Government believes that once a settlement has been reached with regard to the organization and conduct of a free and impartial plebiscite, there will be left no further risk of a threat to the security of the State of Jammu and Kashmir. In any case, should such a threat unfortunately arise, the Pakistan Government will undertake to deal effectively with it within their own borders, even if this should necessitate use of their armed forces. This

should dispel any fears that the Government of India might entertain on this count."

A settlement has now been reached and, if it is faithfully implemented, the people of Kashmir would have no cause to resume the struggle. The tribesmen have also gone back to their homes, and there is no reason to believe that they would do anything to disturb the peace of the State. Should any fresh tribal incursion nevertheless occur, Pakistan is fully prepared to deal with it within its own borders. That should be enough to dispel any doubts in the minds of the Government of India on that score. As a matter of fact, the McNaughton proposals lay down that the arrangements made by the Government of Pakistan in this respect should be communicated to the Military Adviser; he should be advised of them so that he is satisfied that they are adequate. That ought to more than satisfy the Government of India.

The second possibility may be that India is anxious with regard to security against some major power invading the Northern Areas. That has only to be mentioned for the Security Council to realize that if that contingency should unfortunately arise it would not be a question of a few battalions here and there in those areas. In the first place, no sane commander would wish to bring his troops to these areas over mountain ranges, some of them rising to over 25,000 feet and over passes ranging from 15,000 to 19,000 feet. But if the contingency did arise, it would not be these few battalions of the Indian armed forces which would be able to do anything. In that event the defense of the whole area starting from the Persian Gulf and extending right up to the Karakoram would be the business of the Pakistan Government. That is a contingency for which it is idle to provide, and, in any case, it cannot be provided for by placing a few armed camps along these high ranges in the Northern Areas. **The whole attempt of India is to obtain military occupation of an area of which the armed forces of India have never been in military occupation to the extent of even one inch at any time since this dispute began.**

Another argument sometimes put forward has been that the Northern Areas control the trade routes into Sinkiang. Broadly stated, the proposition is correct—Sinkiang being farther to the north. After all, the trade routes pass somewhere. But a study of the geography and of this area will show that there are only two routes between Sinkiang and the Indo-Pakistan Sub-Continent. One route runs through Hunza into Gilgit, and these places are outside the Northern Areas, which means that there is no dispute with regard to them. That route does not pass through or anywhere touch what had been defined as the Northern Areas with regard to which this controversy is being carried on. The other route—which is less frequented because it is not so easily negotiable, particularly in winter—passes through Leh and the Zojila Pass. That is entirely in control of the Indian side already, and no part of it passes through or touches the Northern Areas. Thus we cannot conceive any contingency which necessitates the Government of India's insisting that it must have forces in the Northern Areas. In any case, the resolutions are again clear on that matter. There is nothing with regard to it in the resolutions, and, so far as concerns the Government of India, although it did at one time bring this question

forward it stated that this was not a condition to its acceptance of the resolution of the Commission.

In paragraph 80 on page 34 of the Commission's first report this is stated:

"The Prime Minister of India submitted another letter dated 20 August the contents of which, according to the statement of Sir Girja S. Bajpai, were not to be considered as a condition to the acceptance of the Commission's Resolution by the Government of India."

But even apart from that, **in its final report the Commission has clearly stated that any attempt to post Indian armed forces in these areas would re-start the fighting.** Is it the object of the Government of India to have the fighting restarted, or would the Security Council be willing to lend its support to any proposal which could, in the view of the Commission—and the Commission was fully justified in taking that view—re-start fighting in those areas? I shall quote two passages from the Commission's Third Report. Paragraph 274 of that report reads as follows:

"The spirit of the 13 August Resolution had to be observed. Its underlying principle was the withdrawal of forces from the State, the reduction, not the extension of military activities. It contemplated, and expressly stated, that the Indian Government would maintain within the lines existing at the moment of the cease-fire those forces of its army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order."

Paragraph 275 of the same report goes on to say that:

"The situation in the Northern Area today is such that the posting of garrisons by the Indian Army at any point beyond those which are now held by it would result in an extension of military activities by the Government of India although it need not necessarily imply an increase in the military potential which both Governments have agreed is not to take place on either side."

That sums up the position.

The Commission's recommendation to the Security Council is as follows:

"The Karachi Military Conference of July has settled the question of the cease-fire line. The line is now demarcated and agreed to by India and Pakistan. Until such time as the conditions envisaged in the Resolution of 5 January have been created and normal life begins to return to the State of Jammu and Kashmir, the line which is today a guarantee against a resumption of hostilities should be scrupulously observed by the Governments of India and Pakistan and the opposing forces should remain behind it."

That, I submit, settles that matter.

Sovereignty of the State

My learned friend from India raised the question of the sovereignty and integrity of the State. He said that as long as these have not been

secured, or were in jeopardy, or as long as conditions existed which were inconsistent with them, progress could not be made toward the plebiscite.

In that connection, he drew attention to the fact that the Indian Government's reaction to the Resolution of the Commission of 13 August, 1948 was that it was prepared to accept it only subject to certain conditions. Those considerations were set out in Pandit Jawaharlal Nehru's letter of 20 August, 1948 to the Commission. I shall read the relevant portion of that letter, which is set out at page 33 of the Commission's First Interim Report:

"That paragraph A.3 of Part II of the Resolution should not be interpreted, or applied in practice, so as

"(a) to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops.

"(b) to afford any recognition of the so-called 'Azad Kashmir Government', or

"(c) to enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State."

In connection with the same paragraph, the clarifications given to the Pakistan Government by the Commission included the following—and I am quoting from the Commission's letter of 3 September, 1948, which appears at page 38 of the Commission's First Interim Report:

"In connection with paragraph A.3 of Part II of the Resolution the term 'evacuated territory' refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command, it being understood that the population of these territories will have freedom of legitimate political activity."

The whole trouble was that the Commission was faced with the situation that an impartial administration, a neutral administration, for the whole of the State, comprising both sides—or even a coalition administration—was not acceptable to the Government of India. That being so—although that was contemplated and laid down in the Resolution of 21 April 1948 of the Security Council—the actual fact was that the authority being exercised on both sides was being exercised on the one side by what was known as the Government of the State of Jammu and Kashmir and, on the other side, by the Azad Kashmir Government. But India insisted that the Azad Kashmir Government should not be designated as such in any of these documents, so that the Commission should not by any implication be construed to have given recognition to the Azad Kashmir Government. That is why the Commission, while talking of the State of Jammu and Kashmir on the one side, talks throughout of the "local authorities" on the other, although it is clearly understood that by the "local authorities" is meant the Azad Kashmir Government.

In that connection, the Commission explained, in paragraph 2.a. of its letter of 19 September 1948—and this appears at page 51 of the Commission's First Interim Report:

"... the existence of the Azad Kashmir Movement has not been ignored by the Commission, consideration thereof appearing in Part II A.3 of its Resolution of 13 August."

Sir Benegal Rau drew the attention of the Council to the Commission's truce proposals of 28th April, 1949, and contended that they recognized the principle of the sovereignty of the State. The contention is apparently based on Section III G of the Commission's proposals which said that:

"These terms are without prejudice to the territorial integrity and the sovereignty of the State of Jammu and Kashmir."

What did that mean? In a letter dated 28 April, 1949 from the Chairman of the Commission to the Pakistan Government, it was explained that:

"Section III G recognizes that the Commission cannot prejudge the sovereignty and integrity of the State as a whole. It should not be construed as envisaging the introduction into the area to be evacuated by Pakistan troops of civil or military officials of the Government of Jammu and Kashmir or of the Government of India for the purpose of administration or control."

It is therefore quite clear that the Commission was not giving countenance to any fresh doctrine. All that the Commission was laying down was that the settlement would be for the State of Jammu and Kashmir as a whole, and that the Commission itself was taking up no position with regard to sovereignty or other cognate matters one way or the other.

The representative of India also drew the attention of the Security Council to the resolution of 5 January 1949, paragraph 3 (b) of which lays down that:

"The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite."

He said, how could the Plebiscite Administrator derive his powers from the State of Jammu and Kashmir if the State of Jammu and Kashmir had no authority over the Northern Areas? I shall presently explain to the Security Council what was meant by this clause, what was the genesis of it and what was meant by the Commission, but if that argument were pressed to its logical conclusion it means that the administration and military control of the Government of India should be restored not only in the Northern Areas but throughout the whole of the territories occupied by Azad Kashmir. Otherwise, how was the Plebiscite Administrator going to derive authority in respect of those areas if the State of Jammu and Kashmir was not administering them and had no military control over them? That argument cannot stand at all. As a matter of fact, what happened was this. When the Commission adumbrated clause 3 (b) of its resolution of 5 January, it was pointed out to the Commission that this clause might be misconstrued as meaning that the State of Jammu and Kashmir should mean the Government of Sheikh Abdullah or whatever might take its place, and that unless the Plebiscite Administrator was invested with specific powers he would not have those powers at all. The

Commission said that that was not what was contemplated; **all that was contemplated was that the Plebiscite Administrator should be deemed to have derived his powers, as a matter of legal technicality, from the State of Jammu and Kashmir. Not even the Government was mentioned—it was the “State of Jammu and Kashmir” as a legal entity.**

It was again pointed out that there were areas which were not under the military control or administrative control of either the Government of Jammu and Kashmir or of the Government of India. Would any attempt be made to argue that authority should be derived from the administration of those areas also? The reply was that the words “the State of Jammu and Kashmir” meant that the Plebiscite Administrator was deriving authority from whomsoever had authority in respect of the State of Jammu and Kashmir. It was only a formality which was being complied with. To some extent, no doubt, it would soothe the feelings of the Government of India to know that the Azad Kashmir Government was not being brought into the matter. I shall now proceed to substantiate that explanation of the Commission.

In the summary record of the meeting held on 2 December, 1948 in Paris between the Commission and myself a discussion on these points is reported. We said in the first place that if the Plebiscite Administrator was to derive his authority from the State of Jammu and Kashmir he would have to submit his proposals to them, and they might say that the powers he sought were not necessary and might accordingly withhold them. The Commission replied that this would not be in accord with their intentions. The summary record states:

“Mr. AYUB (Pakistan) explained that as the Plebiscite Administrator was empowered by the Government of the State to take certain measures, he might have to submit his proposals for approval by the Government. MR. HUDDLE (United States) felt that this question was a mere formality because the Plebiscite Administrator might be obliged to resort to certain powers which would be beyond the authority of the Government of the State.” (S/AC. 12/SR. 101, p. 5)

Again, there is the memorandum dated 25 December, 1948 embodying the clarifications given by Dr. Lozano to the Government of Pakistan when he visited Karachi before these proposals were accepted. This is contained in document S/1196, page 32:

“Clause B. 3. b: By the expression ‘the Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary’, is meant that the Plebiscite Administrator will be competent to exercise such powers as he considers necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality, and he shall be deemed to have derived those powers from the authorities concerned. The organizing and conducting of the plebiscite will be the responsibility exclusively of the Plebiscite Administrator.”

This whole question of sovereignty and integrity is a purely technical

question which the Security Council, from the very beginning, has set on one side. It will not go into it; it is not here to decide these technicalities. It is a human problem, and the Security Council as the representative or, I must say, in these matters the custodian of the conscience of the civilized world, must approach it in that spirit and see how it can resolve the question.

With regard to integrity of Kashmir, I might draw the attention of the Security Council to one matter which I have already to some extent stressed, and it is this. If by integrity is meant that the whole of the State should be under one authority, then the Government of India has its choice. The Security Council contemplated that kind of integrity. It suggested an impartial, neutral administration for the whole of the State, as free from the appearance of impartiality as human ingenuity could make it.

In the resolution of 21 April a coalition government of the two sides of the political parties was suggested. That would also bring about that kind of integrity. The Government of India is welcome to this alternative. If it is prepared to accept it then we are also prepared to do so. But if by "integrity," the Government of India means the military control of the whole of the State, and Sheikh Abdullah's administrative control over the whole state, it is perfectly obvious that this is not a thing to which the Pakistan Government could agree, and that is not what was meant by the Security Council or by the Commission.

India Turns Down Arbitration Proposal

When the Commission found itself at the end of its efforts to make progress with regard to the truce, it proposed that the two sides should agree to submit to arbitration such differences as had arisen between them over the truce arrangements. That was reinforced by a very earnest appeal by President Truman and Prime Minister Attlee. We accepted; India declined. **One does not know the exact grounds of India's refusal to go to arbitration over these matters. After all, it seems obvious to us that if I enter into an agreement with somebody else, and over the interpretation of the agreement differences arise, the only method of settling those differences is either by judicial determination of the meaning of the agreement, or by arbitration.**

But there have been indications, once or twice, that the Government of India could not accept arbitration because the terms of the arbitration were indefinite. If that was so, surely those could have been settled by the mediation of the Commission; they could be settled now with the help of the Security Council. In any case, it appears that it is not difficult to state the points of difference, because they were stated the other day by the representative of India in his submission to the Council, and they have been replied to by me. It should be quite possible to determine what are the differences. They relate primarily to the demilitarization of the State and to control over the Northern Areas. The significant point with regard to demilitarization is that the final disposal of the forces remaining on either side during the truce stage has to be carried out by the Plebiscite Administrator under paragraph 4 of the resolution of 5 January. If he is

to do that, what risk is there for anybody in the suggestion that, at an anterior stage, he should arbitrate between the parties as to how far in the truce period demilitarization is to go? The Plebiscite Administrator, of the standing, of the experience, of the reputation which he possesses—an Administrator agreed to between the parties—has to do the final disposal, so why can we not entrust him to determine what should happen in between or to determine what the parties had agreed to in between? That is all that had to be determined—but that was declined.

It has also been said: "We cannot go to arbitration over matters which have already been settled by the Commission." Well, suppose that we say a matter is settled. After all, we say, and we think we have made it clear to the Security Council, that the question of the disarming and disbanding of the Azad Kashmir forces arises at the plebiscite stage, and not during the truce stage. That is clear to everybody; it certainly is very clear to us. But we do not say: this cannot go to arbitration. We are prepared for it to go to arbitration in this sense: Let the arbitrator determine—Did we agree to that disbanding in the truce stage? If we did, let it be carried out. After all, whenever a dispute arises, one party alleges that this has been determined in this sense; the other party says no, this has been determined in the other sense. That is what a dispute over an agreement means. How else does a dispute over an agreement arise?

Then, it has been said: "We cannot put the question of security under arbitration." But nobody suggests putting the question of security under arbitration. The question is: What was agreed upon? The Commission had gone into all these questions—security, law and order, withdrawals, cease-fire, truce, everything—and built up that structure. The only question is: What does that mean? No one says that the question of security should be put to arbitration. As a matter of fact, the final disposal of the armed forces of India and of the State armed forces has to be determined, under paragraph 4 (a), with due regard to the security of the State and the freedom and impartiality of the plebiscite. In any case, any considerations of security which are dealt with by these resolutions can be raised before the arbitrator.

But the position of the Government of India is: "This is what we say. . . . These words ought to mean. . . . Therefore, everybody must accept that that is what they mean, and we cannot ask anybody else to determine this."

Mediation by General McNaughton

When the Commission found itself at the end of its resources it reported the matter back to the Security Council. The Security Council requested General McNaughton to get in touch with the parties and to see whether he could bring about a settlement. The General carried out his task. He has made two reports: an interim report, and a final report presented to the Security Council the other day. The proposals are before the Council. They are based on certain fundamentals: that is true. But those fundamentals have been agreed upon between the parties. The agreed objective is that the future of the State, the question of the accession of the State to India or to Pakistan, should be determined through a free and impartial

plebiscite. Then, General McNaughton has explained he proceeds on the basis that the agreement already arrived at must be preserved, and that the difficulties that have arisen since that agreement and with reference to it should be resolved. But he says that he leaves aside legal technicalities and even the question of who is right or who is wrong in the argument; he takes the problem of demilitarization as a whole, and he does make certain changes with regard to the scheme that was visualized by the Commission. He says, "In my opinion, this is fair and this should be done."

The representative of India has submitted these proposals to meticulous examination and comparison. He chooses whatever he thinks goes in his favour anywhere in the resolutions, the correspondence and the clarifications with the Commission, or in the truce proposals of the Commission, and, if that has been in any manner changed or modified in the McNaughton proposals, he says: "Well, this prejudices me." But he does not look at the other side of the question. After all, either the McNaughton proposals could be identical with what the Commission had done—in which case, his grievance, I presume, would be: "Not having agreed to the Commission's proposals, how can we agree to these: It is merely an attempt to repeat them."—or the McNaughton proposals could be different—in which case, in order to have a complete scheme of his own with regard to the questions that were in dispute, the General's proposals would have to go beyond the Commission's recommendations in some respects and fall short of those recommendations in some respects. That is obvious, it is inescapable. Who could make any grievance out of the whole of that? **What is the real prejudice that the representative of India complains of with regard to those proposals? His only prejudice is that his point of view, which was unacceptable to the Commission, has been equally unacceptable to General McNaughton, by and large.** But General McNaughton has made an effort with regard to the demilitarization in the Azad Kashmir territories, by bringing about demilitarization with respect to the Azad Kashmir forces, not in one stage—the plebiscite stage—but divided between the truce stage and the plebiscite stage. His proposals are also different in one or two other respects.

The McNaughton proposals were accepted by us, and rejected by India. The matter has now come before the Security Council again, and it has been debated. The Security Council is now in full possession of what has happened so far. The question is, what is to be done? **As I said in the opening part of my submission to the Council, on all the criteria that the Government of India has to date suggested with regard to accession, Kashmir ought to accede to Pakistan if the choice had to be made by Kashmir itself. The interest of the majority of the inhabitants of Kashmir indisputably points in that direction.**

Here is a significant fact. In the Indian-occupied area of Kashmir there were roughly two million Muslims before this trouble started. Out of those two million Muslims, 600,000 to 700,000 are already refugees in Pakistan. What does that indicate? That is not an argument; it is a hard poignant fact, and it is the strongest piece of evidence to show in which direction the inhabitants consider safety for themselves, security for themselves, and opportunities for the development of their intellect and for their progress in life.

But it has been agreed that the whole matter shall be settled on the basis of a free and impartial plebiscite. Well, then, let the free and impartial plebiscite take place.

The question today is not of any fresh conditions, of any new conditions. The whole question is to implement the resolutions to which the two parties have agreed.

Pakistan's attitude to the settlement brought about by the Commission is summarized in my letter dated 28 November, 1948, to the Chairman of the Commission. I quote:

"The Commission will agree that in order to achieve a free and impartial plebiscite to decide whether the State should accede to India or to Pakistan, all sections of the people of Jammu and Kashmir must be able to cast their vote without being subjected to any pressure or interference, and that neither of the two Dominions should enjoy any special advantage over the other in respect of the plebiscite.

Pressure may be exercised through the Army, the Police or the Civil Administration. In order to eliminate or neutralize these sources of pressure, the following measures are necessary:

- (i) Withdrawal of all outside troops;*
- (ii) Neutralization of the Civil Administration;*
- (iii) Provision of the fullest and widest powers for the Plebiscite Administrator; and*
- (iv) Ensuring complete freedom for legitimate political activity.*

With regard to the necessity for the complete withdrawal of outside troops, it may be observed that when parts I and II of the Commission's Resolution of 13th August have been complied with, Azad Kashmir Forces will have ceased fighting, tribesmen would have left the State, and the Pakistan Army and the bulk of Indian forces would have withdrawn from the State in accordance with an agreed program. At the end of the truce period, by which time law and order will have been restored in the State, the only outside troops in the State would be the Indian forces retained for internal security. The Government of India have, however, pressed for the retention of Indian forces in Kashmir for purposes of defense as well as of internal security."

I have already read the rest of this paragraph so I shall omit that portion and continue:

"The mere presence of Indian troops, even if they do nothing directly to influence the people of Kashmir in the matter of the plebiscite, would constitute intimidation and is further likely to be exploited by the party interested in securing the accession of the State to India. The freedom and impartiality of the plebiscite would thus be seriously jeopardized by the presence of Indian troops in the State during the plebiscite.

"Secondly, it is essential that the Civil Administration should be

impartial, or should be neutralized on the accession of the State to India or to Pakistan. It is recognized that it would not be practicable to achieve this at all levels of the Administration. What is, however, necessary is that this should be carried out at least at the Ministerial level, so that, in the words of Senator Austin, the administration would command the confidence and respect of all people of the State, and would be a symbol to the people of both sides that the Government of the State was officially neutral on the issue of accession. The Security Council was convinced that this could best be realized through a Coalition Government in which the major political parties shared equitably and fully. The Pakistan Government are also of the same view, but would be prepared to entertain any equally effective alternative which the Commission may wish to suggest."

At that time, of course, the alternative had not yet been suggested. The quotation continues:

"Thirdly, it is obvious that the Plebiscite Administrator should have the fullest powers to enable him to discharge his responsibility to ensure that the plebiscite is completely free and impartial. Having regard to his duties and responsibilities the Plebiscite Administrator must be a man of international standing, in whose judgment, integrity and capacity everyone would have implicit confidence."

There are two great achievements to the credit of the Commission after it was able to obtain the agreement of the two Governments to its resolutions of 13 August, 1948 and 5 January, 1949. One is the implementation of the cease-fire for which, of course, it deserves every credit, and the other is that, fortunately for everyone concerned, the Commission was able to secure, with the agreement of the parties, the appointment of a Plebiscite Administrator, who fulfilled in every respect the qualities that were laid down as being essential in his case, in the person of Admiral Chester W. Nimitz. The quotation goes on:

"It would not be possible to persuade such a man to undertake this high responsibility unless he is assured that he would have adequate powers to discharge it successfully."

"Fourthly, it is necessary to ensure complete freedom of legitimate political activity. Articles 11 to 14 of the Security Council Resolution of 21st April, 1948 were designed to secure this objective, and were accepted by the representatives of India and Pakistan. As explained by Senator Austin, the Plebiscite Administrator would have full authority to make these safeguards effective."

Conclusion:

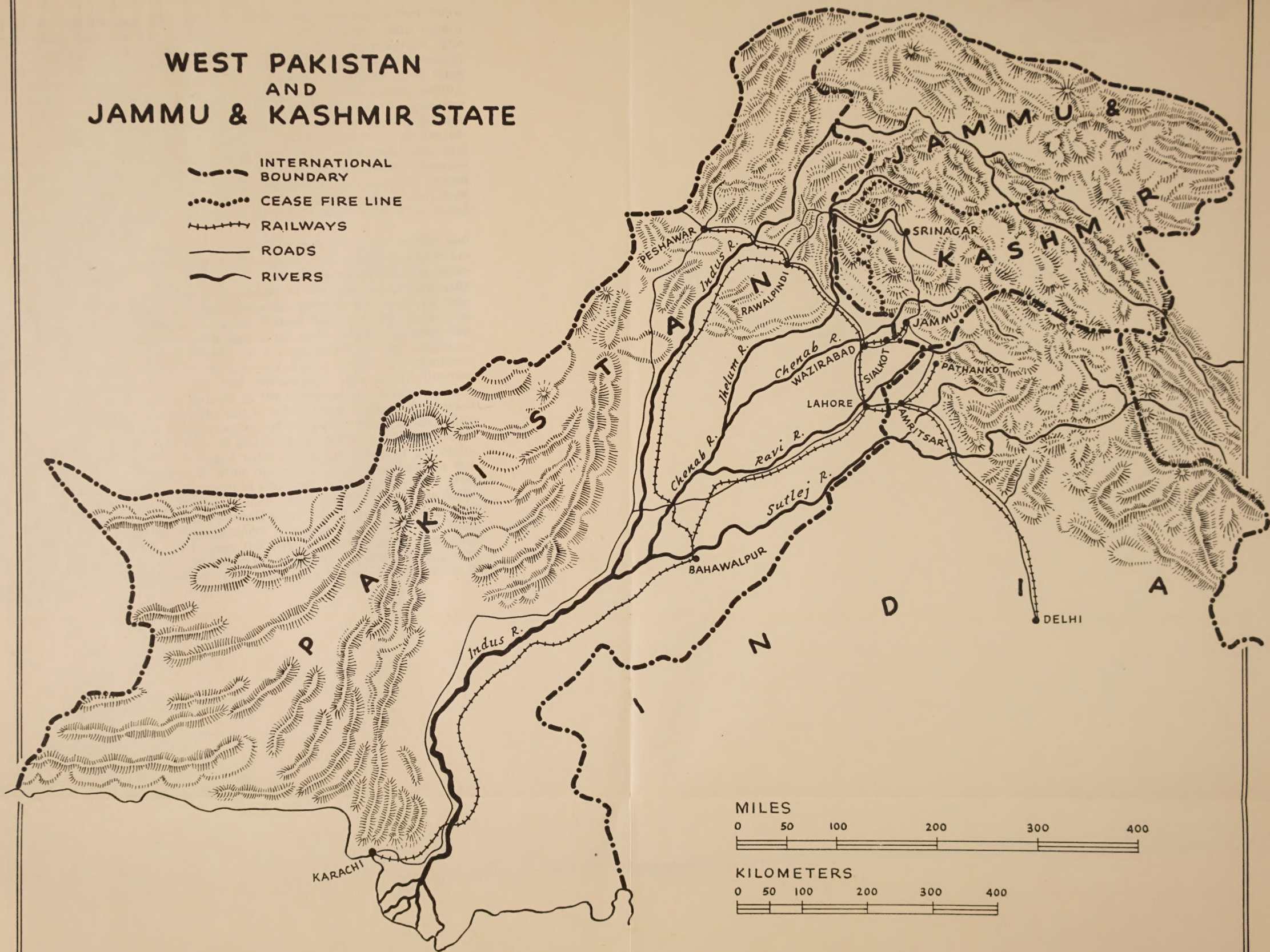
That, Mr. President, is our position. To the extent to which this position has been modified by the two resolutions which have been accepted we

stand by the modification. The whole trouble at the moment is that there are differences between the parties—to put it at the least—with regard to the interpretation of certain matters to which they have agreed. The Security Council is faced with the task at this stage of finding a means of resolving those differences. It can, if it so chooses, pronounce upon them itself and can recommend its decision to the two Governments, saying, “this is what you have agreed upon and we invite you or call upon you to carry it through.” General McNaughton has made an attempt. Although he has not tried to interpret the provisions of the resolution he has attempted to put up a scheme which would overcome those difficulties and enable the parties, and all concerned, to travel to the next stage where—after all this had been done—the plebiscite could be organized and carried through. If it finds that these proposals are fair—and we submit that they are eminently fair—then obviously the two Governments should be called upon to carry them out.

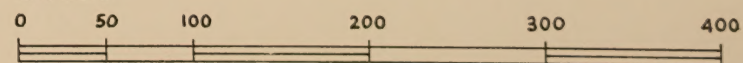
After all, the Security Council has to take a decision in the matter and it must discharge its responsibility in the face of this problem, which has now continued for two and a half years, with all the apprehended consequences which have been brought repeatedly to the notice of the Security Council and to which reference has been made again in the report of General McNaughton. The world looks to the United Nations at the moment as the only means of its salvation in the face of the grave dangers that threaten humanity.. Once the peace is broken on a large scale and the conflagration begins to spread, there is no one—statesman, soldier or scientist—who can predict what the ruin and devastation may be. Civilization might perhaps then be left to flourish in the outlying and unapproachable islands and possibly in the deserts, but it would cease to flourish in what are known today as the civilized portions of the earth. That responsibility lies very heavily on the shoulders of the Security Council as the principal organ of the United Nations charged with taking measures for the maintenance of international peace. If, after the very careful consideration that the Security Council gave to the case in 1948 and is giving to it now, after the extensive submissions that may be made to the Council, after the deliberations among its members, the Council were to lay down or suggest or recommend that under the circumstances it would be just and fair to do this or that, and were to call upon the two Governments to take such action, the Government that refused to do so would be undertaking a very grave and serious responsibility with reference to the maintenance of world peace.

WEST PAKISTAN AND JAMMU & KASHMIR STATE

-  INTERNATIONAL BOUNDARY
-  CEASE FIRE LINE
-  RAILWAYS
-  ROADS
-  RIVERS



MILES



KILOMETERS

